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8 **UNITED STATE DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**

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10 ALFRED ZAKLIT AND JESSY  
11 ZAKLIT, individually and on behalf of  
all others similarly situated,

12 Plaintiffs,

13 vs.

14 NATIONSTAR MORTGAGE LLC  
15 and DOES 1 through 10, inclusive, and  
each of them,

16 Defendants.  
17  
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19

**Case No 5:15-CV-02190-CAS-KKx**

**CLASS ACTION**

**[PROPOSED] ORDER GRANTING  
PRELIMINARY APPROVAL OF  
CLASS ACTION SETTLEMENT**

**DATE: FEBRUARY 25, 2019**

**TIME: 8:30 A.M.**

**COURTROOM: 5A**

Assigned to the Hon. Christina A. Snyder

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**[PROPOSED] ORDER**

1 Plaintiff's Motion for Preliminary Approval of a Class Action Settlement and  
2 Certification of a Settlement Class came on for hearing on February 25, 2019 at 8:30  
3 a.m. before this Court. The Court, having considered the Motion and the Parties'  
4 proposed settlement, grants Plaintiff's Motion as follows:

5 1. The Court has reviewed the terms of the Parties' Settlement Agreement  
6 and Release (the "Settlement") and preliminarily finds that the Settlement appears  
7 sufficiently fair, reasonable, and adequate to warrant dissemination of class notice of  
8 the proposed settlement and scheduling a formal fairness hearing. The Court finds  
9 that the Settlement contains no obvious deficiencies and that the Parties entered into  
10 the settlement in good faith, following arm's length negotiations between their  
11 respective counsel. The Court adopts the definitions set forth in the Settlement and  
12 all defined words or phrases used in this Order shall have the same meaning as in the  
13 Settlement.

14 2. The Court certifies the following class for settlement purposes only  
15 pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure:

16 *"All individuals who, from October 23, 2014 to May 1, 2016,*  
17 *while physically present in California and using a cellular*  
18 *device with a California area code, participated for the first*  
19 *time in an outbound telephone conversation with a*  
20 *representative of Defendant or its agent who were recording*  
21 *the conversation without first informing the individual that the*  
22 *conversation was being recorded. "*

23 Membership in the Settlement Class consists exclusively of individuals included  
24 on the list to be provided by Defendants to the Settlement Administrator, as set  
25 forth in the Agreement.

26 Excluded from the Settlement Class is Defendants and their subsidiaries and  
27 affiliates, employees, officers, directors, agents and representatives and its family  
28 members; Class Counsel; all judicial officers who have presided over the Lawsuit;

1 and all persons who timely elect to become Opt-Outs from the Settlement Class in  
2 accordance with this Order.

3         3. The Court finds that, for the purpose of settlement only, the requirements  
4 of Rule 23 of the Federal Rules of Civil Procedure are met by the class. Joinder of all  
5 class members in a single proceeding would be impracticable, if not impossible,  
6 because of their numbers and dispersion. Common issues exist among class members  
7 and predominate over questions affecting individual class members. Plaintiff's  
8 claims are typical of those of the Settlement Class Members. Plaintiff and her counsel  
9 will fairly and adequately protect the interests of the Settlement Class. Plaintiff has  
10 no interest antagonistic to those of the Settlement Class and has retained counsel  
11 experienced and competent to prosecute this matter on behalf of the class. Finally, a  
12 class settlement is superior to other available methods for a fair resolution of the  
13 controversy.

14         4. The Court preliminarily finds that the requirements of Rule 23(e)(2)  
15 of the Federal Rules of Civil Procedure are satisfied with request to the proposed  
16 settlement. The Class representatives and class counsel have adequately  
17 represented the class, as demonstrated by their efforts in certifying the class by  
18 contested motion after significant formal discovery and motion practice. The Court  
19 found that these requirements were satisfied in its July 24, 2017 Order granting  
20 Plaintiffs' motion for class certification. Dkt. No. 74. Based on the record before  
21 the Court, The Court is persuaded that these requirements continue to be satisfied.  
22 Further, the proposed settlement was negotiated at arm's length, with the assistance  
23 of experienced mediator Hon. Louis M. Meisinger (ret.), and over the course of  
24 several months of subsequent negotiations, conducted with the oversight and  
25 assistance of Judge Meisinger. The Court further finds that the relief provided to  
26 the class is adequate, fair and reasonable taking into account the costs, risks and  
27 delay of trial and appeal. Defendant articulated several bases upon which it  
28 planned to mount a vigorous defense, including contesting plaintiffs' claims at trial  
and filing potential appeals. Plaintiffs and Class Counsel adequately and

1 appropriately considered these risks in negotiating a settlement. Additionally, the  
2 method of distributing relief to the class, by giving direct notice by mail, and  
3 creating a pro rata distribution of a common fund without reversion, is a method of  
4 distribution and settlement that is commonly accepted by courts, including by This  
5 Court, as satisfying the requirements of Rule 23(e)(2). The terms of the proposed  
6 award of attorney's fees are fair and preliminarily determined to be fair and  
7 reasonable, given the length of time in litigation, and the results achieved. The  
8 timing of payment is fair because fees and costs will be paid out of a common fund,  
9 at the same time as the remainder of the class members. Finally, the proposed  
10 settlement puts all class members on equal footing, which is appropriate under the  
11 facts of this case, which involves the same statutory damages awarded to each class  
12 member. Accordingly, the Court preliminarily finds that the requirements of Rule  
23(e)(2) are satisfied.

13         5. For purposes of settlement, the Court appoints Named Plaintiffs Alfred  
14 and Jessy Zaklit to serve as class representatives. Further, pursuant to Rule 23(g)(1)  
15 of the Federal Rules of Civil Procedure, the Court appoints Todd M. Friedman and  
16 Adrian R. Bacon of The Law Office of Todd M. Friedman, P.C. to serve as Class  
17 Counsel.

18         6. Pursuant to Rule 23(c)(2)(B) and Rule 23(e) of the Federal Rules of Civil  
19 Procedure, the Court orders that the Settlement Class be given notice of the pendency  
20 of this action and the Parties' proposed Settlement. The Court finds that the Class  
21 Notice dissemination procedure set forth in Section 9 of the Settlement (i) is the best  
22 practicable notice; (ii) is reasonably calculated, under the circumstances, to apprise  
23 Settlement Class Members of the pendency of the Lawsuit and of their right to object  
24 or to exclude themselves from the proposed Settlement; (iii) is reasonable and  
25 constitutes due, adequate and sufficient notice to all persons entitled to receive notice;  
26 and (iv) meets all applicable requirements as set forth by law. Thus, the Court adopts  
27 and incorporates the Class Notice dissemination procedures set forth in Section 9 of  
28 the Settlement into this Order.

1           7. The Court approves the Class Notice, Long Form Class Notice,  
2 Publication Notice and Opt-Out Form, which are attached as Exhibits A, B, and C to  
3 the Agreement. The Court also approves the creation of a Settlement Website by the  
4 Settlement Administrator.

5           8. The Court appoints Epiq Systems, Inc. as Claims Administrator to  
6 disseminate notice to the Settlement Class and administer the settlement. The Court  
7 orders Epiq Systems, Inc. to: (i) create the Settlement Website; (ii) complete  
8 dissemination of the Class Notice to the Settlement Class by 30 days after preliminary  
9 approval; (iii) file proof of the dissemination of the Class Notice to the Settlement  
10 Class at least fourteen (14) days before the Final Approval Hearing; (iv) establish a  
11 post office box in Epiq Systems, Inc.'s name to be used for receiving opt-out requests,  
12 objections, notices of intention to appear, and any other communications from  
13 Settlement Class Members; (v) promptly furnish Class Counsel, Defense Counsel,  
14 and Defendants with copies of any and all opt-out requests, objections, notices of  
15 intention to appear, or other communications from Settlement Class Members that  
16 come into its possession; and (vi) provide the Opt-Out List to Class Counsel and  
17 Defense Counsel no later than seven (7) days after the opt-out period and file a  
18 declaration with the Court at least fourteen (14) days before the Final Approval  
Hearing attesting to the completeness and accuracy thereof.

19           9. The Court orders the Settlement Administrator to provide a list of  
20 objectors to Class Counsel and Defense Counsel no later than seven (7) days after the  
21 completion of the one hundred and thirty (130) day period in which Settlement Class  
22 Members may object to the settlement, and then file a declaration with the Court at  
23 least fourteen (14) days before the Final Approval Hearing attesting to the  
24 completeness and accuracy thereof and attaching a copy of all objections received.

25           10. The Court sets a Final Approval Hearing on August 19, 2019, at 10:00  
26 A.M. to consider the fairness, reasonableness, and adequacy of the proposed  
27 Settlement and determine whether it should finally be approved by the Court. At that  
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1 time, the Court will hear any applications for attorneys' fees, expenses, and/or service  
2 awards.

3 11. The Court sets June 3, 2019 as the deadline for filing the final approval  
4 motion and the application for the Attorneys' Fee Award.

5 12. The Court sets July 5, 2019 as the deadline by which Settlement Class  
6 Members must submit any: (i) request for exclusion from the Settlement Class; or (ii)  
7 objection to the Settlement or to the Attorneys' Fee Award. The procedures and  
8 requirements for opting out of the Settlement Class or objecting to the Settlement or  
9 to the Attorneys' Fee Award are set forth below.

10 13. The Court sets July 26, 2019 as the deadline for filing any reply  
11 memorandum in further support of final approval of the proposed Settlement or the  
12 Attorneys' Fee Award application.

13 14. The Court orders that any Settlement Class Member who wishes to  
14 exclude him/herself from the Settlement Class may either submit an online Opt-Out  
15 Form electronically through the Settlement Website or print and mail the online form  
16 to the Settlement Administrator. Any Settlement Class Member who does not submit  
17 a timely written request for exclusion from the Settlement Class will be bound by all  
18 proceedings, orders, and judgments in the Lawsuit, even if such Settlement Class  
19 Member has previously initiated or subsequently initiates individual litigation or other  
proceedings encompassed by the Release.

20 15. The Court orders that any Settlement Class Member who becomes an  
21 Opt-Out may rejoin the Settlement Class by providing written notice to the Settlement  
22 Administrator no later than fourteen (14) days before the Final Approval Hearing.

23 16. The Court orders that any Settlement Class Member who does not  
24 exclude him/herself from the Settlement Class and who wishes to object to the  
25 fairness, reasonableness, or adequacy of the Settlement or to the Attorneys' Fee  
26 Award must serve on the Settlement Administrator no later than July 5, 2019 a  
27 statement of the objections signed by the Settlement Class Member. The objection  
28 shall contain all of the following information: (i) the objector's full name, address,

1 email, and mobile telephone number at which he or she was called by Nationstar; (ii)  
2 a written statement of all grounds for the objections accompanied by any legal support  
3 for such objections; (iii) copies of any papers, briefs, or other documents upon which  
4 the objection is based; (iv) a written statement as to whether the objector intends to  
5 appear at the Final Approval Hearing; (v) a declaration setting forth any other  
6 objections submitted by the objector, or the objector's counsel, to any class action  
7 settlement submitted in any court, whether state, federal or otherwise, in the United  
8 States; and (vi) if the objector intends to appear at the Final Approval Hearing through  
9 counsel, the objection must also identify the attorney(s) representing the objector who  
10 will appear at the Final Approval Hearing. Any Settlement Class Member who does  
11 not submit a timely written objection in accordance with the procedures stated herein  
12 shall be foreclosed from seeking any adjudication or review of this settlement by  
13 appeal or otherwise.

14 17. The Court orders that any Settlement Class Member, who submits a  
15 written objection and who intends to make an appearance at the Final Approval  
16 Hearing, provide to the Settlement Administrator (who shall forward it to Class  
17 Counsel and Defense Counsel) and file with the Clerk of the Court the written  
18 objection as well as a notice of intention to appear at the Final Approval Hearing no  
19 later than thirty (30) days before the Final Approval Hearing.

20 18. The Court orders that any attorney hired by a Settlement Class Member  
21 will be at the Settlement Class Member's sole expense for the purpose of objecting to  
22 this Settlement or to the Attorneys' Fee Award and such attorney shall provide to the  
23 Settlement Administrator (who shall forward it to Class Counsel and Defense  
24 Counsel) and file with the Clerk of the Court the written objection by the deadline  
25 specified in paragraph 15 above as well as file a notice of intention to appear at the  
26 Final Approval Hearing no later than thirty (30) days before the Final Approval  
27 Hearing.

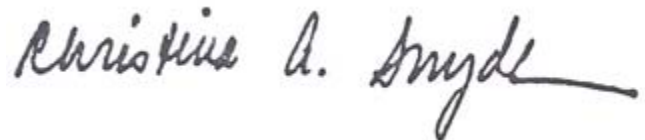
28 19. The Court orders that (i) the submission of an objection allows Class  
Counsel or Defendants' Counsel to notice the deposition of the objector consistent



1 with the Federal Rules of Civil Procedure at an agreed-upon location and to seek any  
2 documentary evidence or tangible items that are relevant to the objection; (ii) the  
3 failure by an objector to make himself or herself available for deposition or to comply  
4 with expedited discovery requests may result in the Court striking the objector's  
5 objection and denying that person the opportunity to make an objection or to be heard;  
6 and (iii) the Court may tax the costs of any such discovery to the objector or the  
7 objector's counsel should the Court determine that the objection is frivolous and/or  
8 made for an improper purpose. The Court preliminarily enjoins all Settlement Class  
9 Members unless and until they have timely excluded themselves from the Settlement  
10 Class from: (i) filing, commencing, prosecuting, intervening in, promoting or  
11 participating (as class members or otherwise in) as any jurisdiction or arising out of  
12 the claims and causes of action, or the facts and circumstances relating thereto, in this  
13 Action; or (ii) organizing Settlement Class Members who have not been excluded  
14 from the Settlement Class into a separate class for purposes of pursuing as a purported  
15 class action any lawsuit (including by seeking to amend a pending complaint to  
16 include class allegations, or seeking class certification in a pending action) based on  
17 or relating to the claims and causes of action, or the facts and circumstances relating  
18 thereto, in this Action.

18 **IT IS SO ORDERED.**

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20 Dated: March 4, 2019



21 Honorable Christina A. Snyder  
22 United States District Court Judge  
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